family, if probative investigative leads would result from a full reinvestigation.

This bipartisan legislation represents an important step in fostering renewed hope for families and is supported by a broad array of advocates, including the Federal Law Enforcement Officers Association, the National Organization of Parents of Murdered Children, the National Coalition Against Domestic Violence, and the Association of Prosecuting Attorneys.

I thank Chairman ERIC SWALWELL for his astute effort on this bipartisan bill that will help families of victims seek justice for their loved ones.

The backlog of cold case murders continues to grow nationally. This means that thousands of murderers evade prosecution and continue to walk the streets, able to commit more crimes, and possibly more murders, while thousands of mothers, fathers, husbands, wives, sons, and daughters have yet to find closure in the loss of their loved ones.

That is why this bill is so important. This legislation would result in more closed cases, justice for victims, closure for their families, and greater faith in law enforcement.

I ask that my colleagues join me in supporting this bill today.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Texas (Ms. JACKSON LEE) that the House suspend the rules and pass the bill, H.R. 3359, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. CLYDE. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Pursuant to section 3(s) of House Resolution 8, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, further proceedings on this motion are postponed.

PROHIBITING PUNISHMENT OF ACQUITTED CONDUCT ACT OF 2021

Ms. JACKSON LEE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1621) to amend section 3661 of title 18, United States Code, to prohibit the consideration of acquitted conduct at sentencing, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1621

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Prohibiting Punishment of Acquitted Conduct Act of 2021''.

SEC. 2. ACQUITTED CONDUCT AT SENTENCING.

(a) USE OF INFORMATION FOR SENTENCING.—

(1) AMENDMENT.—Section 3661 of title 18, United States Code, is amended by inserting '', except that a court of the United States shall not consider, except for purposes of mitigating a sentence, acquitted conduct under this section'' before the period at the end.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply only to a judgment entered on or after the date of enactment of this Act.

(b) DEFINITIONS.—Section 3673 of title 18, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking ''As'' and inserting the following:

''(a) As''; and

(2) by adding at the end the following:

''(b) As used in this chapter, the term 'acquitted conduct' means—

''(1) an act—

''(A) for which a person was criminally charged and with regard to which—

''(i) that person was adjudicated not guilty after trial in a Federal, State, or Tribal court; or

''(ii) any favorable disposition to the person in any prior charge was made, regardless of whether the disposition was pretrial, at trial, or post trial; or

''(B) in the case of a juvenile, that was charged and for which the juvenile was found not responsible after a juvenile adjudication hearing; or

''(2) any act underlying a criminal charge or juvenile information dismissed—

''(A) in a Federal court upon a motion for acquittal under rule 29 of the Federal Rules of Criminal Procedure; or

''(B) in a State or Tribal court upon a motion for acquittal or an analogous motion under the applicable State or Tribal rule of criminal procedure.''.

SEC. 3. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Texas (Ms. JACKSON LEE) and the gentleman from Oregon (Mr. BENTZ) each will control 20 minutes.

The Chair recognizes the gentlewoman from Texas.

GENERAL LEAVE

Ms. JACKSON LEE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous materials on H.R. 1621.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

Ms. JACKSON LEE. I yield myself such time as I may consume.

Mr. Speaker, I am very proud to support H.R. 1621, the Prohibiting Punishment of Acquitted Conduct Act, which offers a solution to a long-identified problem within our criminal justice system.

This bill provides necessary reform to current Federal sentencing practice that allows judges to sentence defendants based on conduct for which a jury has found them not guilty.

The Sixth Amendment to the Constitution provides that anyone accused of a crime shall enjoy the right to a speedy and public jury trial, while the Fifth Amendment provides that no person shall be deprived of life, liberty, or property, without due process of law.

These provisions mean that the government is bound to move each and every element of an offense for which a defendant is charged beyond a reasonable doubt during a jury trial, or that defendant must admit each element of an offense to support a plea of guilty. Absent that, those offenses are not found guilty, if you will, to the individual.

Notwithstanding this constitutional obligation, Federal judges routinely nullify not guilty verdicts rendered by juries and sentence defendants to significantly higher penalties based on acquitted conduct.

In its current form, 18 U.S.C. 3661 prohibits any limitation of the conduct a judge may consider when sentencing a defendant, even when a jury has determined that there was insufficient evidence to prove the defendant committed the charged offense; it seems clearly a constitutional violation.

Additionally, under the concept of ''relevant conduct,'' the U.S. Sentencing Guidelines allow judges to consider a range of conduct, including dismissed charges, uncharged conduct, and acquitted conduct when imposing sentences. Again, might I say, seemingly a very unfair direction given without limitations, and certainly without adherence to the constitutional amendments.

The fact-finding made by judges at sentencing is based on a lower evidentiary standard than at trial—that is, by a preponderance of evidence—which many scholars defined as a 50 percent chance that a claim is true.

The reform proposed in this bill ensures that judges punish defendants on facts proven beyond a reasonable doubt, criminal standard, the higher evidentiary standard of proof required during a jury trial, which some scholars attach a value of 90 to 95 percent surety.

Justice Ginsberg, a moderate liberal who became more liberal in later years, joined Justice Thomas and Justice Scalia, a staunch conservative, in his dissent in Jones v. United States, lamenting the failure of the Court to determine if the Sixth Amendment is violated when judges impose sentences based solely on judge-found facts.

While the Sentencing Guidelines suggested prison sentences from 27 to 71 months for the three defendants in the case, the trial judge imposed—if you can believe it—overwhelming sentences of 180, 194, and 225 months, based on the conduct the prosecution failed to prove.

Justice Scalia's often-quoted dissent was issued more than 7 years ago. Yet nothing has been done about this unjust, undemocratic practice and, really, unconstitutional, which diminishes the sanctity of the jury trial, the standard of reasonable doubt, which any layman can tell you. When you ask them what the standard is for proving guilt or innocence in a criminal trial, everybody knows the words, ''with reasonable doubt.''

Can you imagine? That is not the case.

The public check on the government's power and the overall integrity of the criminal justice system must be maintained.

H.R. 1621 would restore fairness to jury trials by amending Section 3661 to ban consideration of acquitted conduct at sentencing unless the conduct is considered for mitigation purposes.

Though I wish we were doing more to advance substantive criminal justice reform, I am happy to support this bipartisan bill that addresses an acute need while restoring the basic propositions of due process and the right to a trial by jury.

I want to express enthusiastic support and appreciation to Representative STEVE COHEN, chair of the Subcommittee on the Constitution, Civil Rights and Civil Liberties, for his commitment to justice and for taking the lead on this significant, bipartisan bill, along with Representative KELLY ARMSTRONG.

A broad coalition of advocates support this measure, including—R Street Institute, the ACLU, The Innocence Project, Brennan Center for Justice, the American Bar Association, Families Against Mandatory Minimums, The Leadership Conference on Civil and Human Rights, and the Federal Public and Community Defenders.

It is for that reason I hope that the Senate will take up this bill and pass the House version as soon as possible.

I ask my colleagues to support this bill and to continue working on additional measures to make our justice system more equitable and more transparent. I look forward to coming to the floor with those initiatives.

Mr. Speaker, I reserve the balance of my time.

Mr. BENTZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1621, the Prohibiting Punishment of Acquitted Conduct Act of 2021.

The Sixth Amendment of the Constitution ensures that criminal defendants have the right to a trial by jury. This right is so important that our Founding Fathers preserved it in the Bill of Rights. It is a hallmark of our great country and one of the many things that separates us from other countries.

Our commitment to trial by jury means we accept the jury's decision whether we agree with it or not.

This bill would prohibit Federal judges from increasing a defendant's sentence based on conduct for which the defendant had been acquitted by a jury.

In 1987, the United States Sentencing Commission established Federal sentencing guidelines. These guidelines allow judges to consider conduct that was not formally charged or proven beyond a reasonable doubt at a trial, so long as the judge finds the conduct relevant by a preponderance of the evidence.

There are numerous examples of this happening. Judges have intervened to overrule the determinations of juries and have handed down harsher sentences after considering conduct for which the defendants have been charged and acquitted.

□ 1730

Allowing judges to consider acquitted conduct punishes people for a crime for which they have not been convicted. It is wrong and violates the spirit of our Bill of Rights.

Both Justice Kavanaugh and the late Justice Antonin Scalia recognized the fundamental unfairness of using acquitted conduct at sentencing. Both said it must stop.

In 2015, as a judge on the U.S. Court of Appeals for the D.C. Circuit, then-Judge Kavanaugh wrote: ''Allowing judges to rely on acquitted or uncharged conduct to impose higher sentences than they otherwise would impose seems a dubious infringement on the rights to due process and to a jury trial.''

I agree with Justice Scalia and Justice Kavanaugh.

Mr. Speaker, I urge my colleagues to join me in supporting this bill, and I reserve the balance of my time.

Ms. JACKSON LEE. Mr. Speaker, I yield 5 minutes to the gentleman from Tennessee (Mr. COHEN), the author of this legislation; the chairman of the Subcommittee on the Constitution, Civil Rights, and Civil Liberties of the Committee on the Judiciary; and a strong advocate for justice.

Mr. COHEN. Mr. Speaker, first, I want to take a point of personal privilege. This is the first day that I have walked into the House without Don Young being in it.

Don Young was an outstanding Congressman and a good human being. He was my friend. Every day I walked in those doors and he sat on the aisle, I would say hello, and we would talk. This is the first day he hasn't been there to say hello.

I will join with other Members to memorialize him in the services tomorrow here in the Capitol and also at his church in Virginia on Wednesday. Mr. YOUNG was the dean of the House, just a good human being, and he had a wonderful wife.

On this bill, I want to thank Mr. ARMSTRONG for working with me on it. He was a strong proponent of the bill, and it is truly bipartisan and bicameral. It has already passed the Senate in some form, I believe.

It has been mentioned that Justice Scalia was a great proponent of this, as was Justice Ginsburg and Justice Kavanaugh.

Mr. BENTZ and Ms. JACKSON LEE have made all the arguments. I have a few pages of speeches here, but there is no reason to read them. A long time ago, I was told if you make the sale, sit down. The sale has been made, I believe.

Mr. Speaker, I urge everybody to vote ''aye.''

I rise in strong support of H.R. 1621, the Prohibiting Punishment of Acquitted Conduct Act. This bill is a bipartisan, bicameral effort to prevent judges from punishing defendants for conduct they have not been found to be guilty of. I'd like to begin by thanking my co-lead on this bill, Congressman KELLY ARMSTRONG, for all his hard work on this issue.

The U.S. Constitution's Fifth and Sixth Amendments guarantee the right to due process and the right to a jury trial for those accused of a crime—these are two foundational principles meant to foster justice and fairness in the American criminal legal system. These rights ensure that we are presumed to be innocent unless and until the government proves a defendant's guilt to a Jury.

Our system requires the government to prove an individual's guilt to a jury beyond a reasonable doubt; however, under current federal law, judges may impose sentencing enhancements for conduct that they find to have been committed based on a less demanding standard—preponderance of the evidence.

The result of this discrepancy in the law is that even if a defendant has been found by a jury of their peers to not be guilty of a crime, a judge may still use and consider that conduct for the purposes of sentencing them. This means that people are spending time in jail for conduct that the government failed to prove they had committed, and a jury has acquitted them of.

This is entirely antithetical to the foundational principles of our criminal justice system and Constitution—it not only undermines due process, but it undercuts the important role juries play in our criminal system by allowing judges to sentence individuals for conduct regardless of the decision of the jury.

The Prohibiting Punishment of Acquitted Conduct Act would correct this inexplicable discrepancy by prohibiting the consideration of such acquitted conduct in sentencing by federal judges, unless being considered for the purpose of mitigating a sentence. This would ensure that no one spends time in jail for conduct prosecutors were not able to prove at trial.

It does so by amending Section 3661 of Title 18 to expressly state that, except for purposes of mitigating a sentence, a court of the United States shall not consider acquitted conduct when sentencing a defendant.

Ending the consideration of acquitted conduct is and should be a bipartisan effort—two of the fiercest champions of this policy position include the late Justices Ginsburg and Scalia.

Allowing judges to continue to sentence defendants based on conduct they have been acquitted of demeans and diminishes due process and is a blatant attack on the Constitutional rights of Americans. We must preserve and protect these rights by passing the Prohibiting Punishment of Acquitted Conduct Act.

No one should be put behind bars for something the government was unable to prove they did to a jury of their peers beyond a reasonable doubt.

I urge all of my colleagues to join me in supporting this bicameral, bipartisan bill to end this un-American practice.

Mr. BENTZ. Mr. Speaker, I yield as much time as he may consume to the gentleman from North Dakota (Mr. ARMSTRONG).

Mr. ARMSTRONG. Mr. Speaker, I rise today in support of the Prohibiting Punishment of Acquitted Conduct Act.

I thank Mr. COHEN for introducing this important legislation.

Mr. Speaker, due process is more than an ideal. It is a fundamental right enshrined in our law. The Constitution confirms that right and explicitly ensures procedural fairness to those accused and convicted of crimes. Yet, the criminal justice system often grants judges with discretion to increase the length and severity of punishment based on conduct for which an individual was proven not guilty.

We can all agree that holding criminals accountable is essential to law and order. However, sentencing based on acquitted conduct is an affront to all Americans' constitutional rights. The Prohibiting Punishment of Acquitted Conduct Act will bring an end to this unfair practice.

This bipartisan, bicameral legislation bars judges from considering an individual's acquitted conduct during sentencing, except for purposes of mitigating a sentence.

This bill is a crucial step toward restoring some fairness in our criminal justice system and commands a broad coalition of support, including Senate Judiciary Committee Chairman DICK DURBIN, the ACLU, Americans for Prosperity, and the American Conservative Union.

I thank both Chairman NADLER and Ranking Member JORDAN for moving this bill through the Judiciary Committee.

One last thing: Judges have a range of sentences in the sentencing guidelines. Prosecutors, after conviction, make recommendations. There is a pretrial sentencing report. Again, the sentencing can vary very highly up and down in that vein. There is absolutely no reason, in the interest of justice or fairness, where acquitted conduct needs to be used in sentencing offenders.

Mr. COHEN. Will the gentleman yield?

Mr. BENTZ. I yield to the gentleman from Tennessee.

Mr. COHEN. Mr. Speaker, I want to say how much I enjoyed working with Mr. ARMSTRONG on the Judiciary Committee.

When I came back for the new Congress and he wasn't on the committee, that was a loss. But it has been good to work with him on this bill, and he has worked on this in the past. I appreciate it.

Mr. Speaker, I would like to incorporate by reference everything that Mr. ARMSTRONG said into my previous lack of remarks. It can be done.

Ms. JACKSON LEE. Mr. Speaker, I reserve the balance of my time.

Mr. BENTZ. Mr. Speaker, I urge my colleagues to support this bill, and I yield back the balance of my time.

Ms. JACKSON LEE. Mr. Speaker, I yield myself the balance of my time.

I thank the gentleman from Oregon for supporting this legislation. He cited a number of judges and courts who added their support to this important legislation.

Mr. COHEN's eloquence was in the efforts he has made to help those who have suffered injustice.

We thank Congressman ARMSTRONG for his work as well. The fact that they are speaking in tandem speaks loudly on this floor.

As I close, I include in the RECORD the dissenting opinion of Justices Scalia, Thomas, and Ginsburg, with simple comments from their opinion:

''On petitioners' appeal, the D.C. Circuit held that even if their sentences would have been substantively unreasonable but for judge-found facts, their Sixth Amendment rights were not violated.''

That was found by the D.C. Circuit.

''We should grant certiorari to put an end to the unbroken string of cases disregarding the Sixth Amendment.''

So, you are more than affirmed that the Sixth Amendment in these cases is patently disregarded.

I include in the RECORD the Supreme Court dissent on the Jones v. United States case.

SUPREME COURT OF THE UNITED STATES

JOSEPH JONES, DESMOND THURSTON, AND ANTWUAN, BALL V. UNITED STATES

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 13–10026.—Decided October 14, 2014

The petition for a writ of certiorari is denied.

JUSTICE SCALIA, with whom JUSTICE THOMAS and JUSTICE GINSBURG join, dissenting from denial of certiorari.

A jury convicted petitioners Joseph Jones, Desmond Thurston, and Antwuan Ball of distributing very small amounts of crack cocaine, and acquitted them of conspiring to distribute drugs. The sentencing judge, however, found that they *had* engaged in the charged conspiracy and, relying largely on that finding, imposed sentences that petitioners say were many times longer than those the Guidelines would otherwise have recommended.

Petitioners present a strong case that, but for the judge's finding of fact, their sentences would have been ''substantively unreasonable'' and therefore illegal. See *Rita* v. *United States*, 551 U.S. 338, 372 (2007) (SCALIA, J., joined by THOMAS, J., concurring in part and concurring in judgment). If so, their constitutional rights were violated. The Sixth Amendment, together with the Fifth Amendment's Due Process Clause, ''requires that each element of a crime'' be either admitted by the defendant, or ''proved to the jury beyond a reasonable doubt.'' *Alleyne* v. *United States*, 570 U.S. ____, ____ (2013) (slip op., at 3). Any fact that increases the penalty to which a defendant is exposed constitutes an element of a crime, *Apprendi* v. *New Jersey*, 530 U.S. 466, 483, n. 10, 490 (2000), and ''must be found by a jury, not a judge,'' *Cunningham* v. *California*, 549 U.S. 270, 281 (2007).* We have held that a substantively unreasonable penalty is illegal and must be set aside. *Gall* v. *United States*, 552 U.S. 38, 51 (2007). It unavoidably follows that any fact necessary to prevent a sentence from being substantively unreasonable—thereby exposing the defendant to the longer sentence—is an element that must be either admitted by the defendant or found by the jury. It *may not* be found by a judge.

For years, however, we have refrained from saying so. In *Rita* v. *United States*, we dismissed the possibility of Sixth Amendment violations resulting from substantive reasonableness review as hypothetical and not presented by the facts of the case. We thus left for another day the question whether the Sixth Amendment is violated when courts impose sentences that, but for a judge-found fact, would be reversed for substantive unreasonableness. 551 U.S., at 353; see also *id.*, at 366 (Stevens, J., joined in part by GINSBURG, J., concurring) (''Such a hypothetical case should be decided if and when it arises''). Nonetheless, the Courts of Appeals have uniformly taken our continuing silence to suggest that the Constitution *does* permit otherwise unreasonable sentences supported by judicial factfinding, so long as they are within the statutory range. See, e.g., *United States* v. *Benkahla*, 530 F. 3d 300, 312 (CA4 2008); *United States* v. *Hernandez*, 633 F. 3d 370, 374 (CA5 2011); *United States* v. *Ashqar*, 582 F. 3d 819, 824–825 (CA7 2009); *United States* v. *Treadwell*, 593 F. 3d 990, 1017–1018 (CA9 2010); *United States* v. *Redcorn*, 528 F. 3d 727, 745–746 (CA10 2008).

This has gone on long enough. The present petition presents the case the Court claimed to have been waiting for. And it is a particularly appealing case, because not only did no jury convict these defendants of the offense the sentencing judge thought them guilty of, but a jury *acquitted* them of that offense. Petitioners were convicted of distributing drugs, but acquitted of conspiring to distribute drugs. The sentencing judge found that petitioners had engaged in the conspiracy of which the jury acquitted them. The Guidelines, petitioners claim, recommend sentences of between 27 and 71 months for their distribution convictions. But in light of the conspiracy finding, the court calculated much higher Guidelines ranges, and sentenced Jones, Thurston, and Ball to 180, 194, and 225 months' imprisonment.

On petitioners' appeal, the D.C. Circuit held that *even* if their sentences would have been substantively unreasonable but for judge-found facts, their Sixth Amendment rights were not violated. 744 F. 3d 1362, 1369 (2014). We should grant certiorari to put an end to the unbroken string of cases disregarding the Sixth Amendment—or to eliminate the Sixth Amendment difficulty by acknowledging that all sentences below the statutory maximum are substantively reasonable.

Ms. JACKSON LEE. I will say that the failure to address this issue for so many years has contributed to the epidemics of overincarceration and mass incarceration, weakened the finality that a jury trial is meant to provide, and undermined overall public confidence in our justice system.

I really think this legislation has exposed some incredulous behavior because most people believe that you are sentenced on the reasonable doubt convictions as opposed to additional sidebar conversations that may come to the judge's attention in terms of other offenses.

Today, we consider a simple, narrowly tailored bill that builds on our bipartisan effort to create a fair justice system. This bill will make sure that defendants are punished only for the conduct that prosecutors are able to prove at trial, consistent with the constitutional guarantees of due process and the right to a trial by jury of their peers, and consistent with the principles on which country was founded.

Before I close, I join with my colleague from Tennessee's remarks and indicate the deepest sympathy to the family of the dean, Congressman Don Young. He is a voice—and I speak in the present. His presence was larger than life. He spoke to everyone. His booming voice is something that I am certainly going to find a great loss, as well as his love and passion for not only his family and his great State but also for this institution.

I don't know if we will ever find an institutionalist such as Don, but we can certainly follow in his footsteps and his desire for order when he cited the words ''regular order.''

We were blessed by having him here, and may he rest in peace.

Mr. Speaker, I ask that my colleagues join me in supporting this bill, and I yield back the balance of my time.

Mr. Speaker, I move to suspend the rules and pass H.R. 1621, the ''Prohibiting Punishment of Acquitted Conduct Act of 2021, as amended.

Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on H.R. 1621.

Mr. Speaker, I yield myself such time as I may consume.

OPENING STATEMENT

Mr. Speaker. I am proud to support of H.R. 1621, the ''Prohibiting Punishment of Acquitted Conduct Act,'' which offers a solution to a long-identified problem within our criminal justice system.

This bill provides necessary reform to current federal sentencing practice that allows judges to sentence defendants based on conduct for which a jury found them not guilty.

The Sixth Amendment to the Constitution provides that anyone accused of a crime shall enjoy the right to a speedy and public jury trial, while the Fifth Amendment provides that no person shall be deprived of life, liberty, or property, without due process of law.

Together these provisions mean that the Government is bound to prove each and every element of an offense for which a defendant is charged beyond a reasonable doubt during a jury trial, or that a defendant must admit each element of an offense to support a plea of guilty.

Notwithstanding this constitutional obligation, federal judges routinely nullify not guilty verdicts rendered by juries and sentence defendants to significantly higher penalties based on acquitted conduct.

In its current form, 18 USC § 3661 prohibits any limitation of the conduct a judge may consider when sentencing a defendant, even when a jury has determined that there was insufficient evidence to prove the defendant committed the charged offense.

Additionally, under the concept of ''relevant conduct,'' the U.S. Sentencing Guidelines allow judges to consider a range of conduct, including dismissed charges, uncharged conduct, and acquitted conduct when imposing sentences.

The fact-finding made by judges at sentencing is based on a lower evidentiary standard than at trial—that is by a preponderance of the law—which many scholars define as a 50% chance that a claim is true.

The reform proposed in this bill ensures that judges punish defendants based on facts proven beyond a reasonable doubt—the higher evidentiary standard of proof required during jury trials, which some scholars attach a value of 90 to 95% surety.

Justice Ginsburg moderate-liberal who became more liberal in later years, joined Justice Thomas and Justice Scalia, a staunch conservative, in his dissent in Jones v. United States, lamenting the failure of the Court to determine if the Sixth Amendment is violated when judges impose sentences based solely on judge-found facts.

While the Sentencing Guidelines suggested prison sentences from 27 to 71 months for the three defendants in the case, the trial judge imposed sentences of 180, 194, and 225 months, based on conduct the prosecution failed to prove.

Justice Scalia's often-quoted dissent was issued more than seven years ago.

Yet nothing has been done about this unjust, undemocratic practice, which diminishes the sanctity of the jury trial, the public check on the government's power, and the overall integrity of the criminal justice system.

H.R. 1621 would restore fairness to jury trials by amending Section 3661 to ban consideration of acquitted conduct at sentencing unless the conduct is considered for mitigation purposes.

Though I wish we were doing more to advance substantive criminal justice reform, I support this bipartisan bill that addresses an acute need while restoring the basic propositions of due process and the right to trial by jury.

I thank our colleague, Representative STEVE COHEN, for his commitment to justice and for taking the lead on this significant, bipartisan bill alongside Representative KELLY ARMSTRONG.

A broad coalition of advocates support this measure, including R Street Institute, the ACLU, The Innocence Project, Brennan Center for Justice, the American Bar Association, Families Against Mandatory Minimums, the Leadership Conference on Civil and Human Rights, and Federal Public & Community Defenders.

It is my hope that the Senate will take up and pass the House version of this bill soon.

I ask my colleagues to support this bill and to continue working together on additional measures to make our justice system more equitable and more transparent.

Mr. CICILLINE. Mr. Speaker, I rise today in support of the Prohibiting Punishment of Acquitted Conduct Act—commonsense bipartisan and bicameral legislation to restore a key aspect of fairness to our criminal justice system.

Under the U.S. criminal justice system, you are innocent until proven guilty. A principle that is foundational to our system of law and order.

Coupled with this principle, is that if you are charged with a crime, you are entitled to a trial by a jury of your peers. If they find you innocent, your case is finished.

This all makes sense—and aligns with our understanding of our justice system. But, in too many cases, tour courts are punishing people for crimes they've been found innocent of.

Currently, even if one jury finds you innocent and acquits you of a crime, a different judge can still use that allegation as a basis of providing a harsher punishment for a crime you are convicted of.

This means that the second judge can effectively unilaterally overturn a prior acquittal when considering a future sentence—dismissing the presumption of innocent until proven guilty.

This is absurd.

I was a litigator and defense attorney for many years, and I understand exactly how unjust it is for someone found innocent to have this ticking timebomb looming overhead.

This bill will end the practice of judges increasing sentences based on conduct for which a defendant has been acquitted by a jury—restoring a foundation pillar of fairness in our criminal justice system.

I want to thank Congressman COHEN and Congressman ARMSTRONG for their leadership on this issue, and I urge my colleagues to support this commonsense bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Texas (Ms. JACKSON LEE) that the House suspend the rules and pass the bill, H.R. 1621, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. CLYDE. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Pursuant to section 3(s) of House Resolution 8, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, further proceedings on this motion are postponed.

COVID–19 AMERICAN HISTORY PROJECT ACT

Ms. SCANLON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4738) to direct the American Folklife Center at the Library of Congress to establish a history project to collect video and audio recordings of personal histories and testimonials, written materials, and photographs of those who were affected by COVID–19, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4738

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''COVID–19 American History Project Act''.

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds as follows:

(1) COVID–19 is a highly infectious respiratory illness caused by a virus called SARS–CoV–2. This disease has caused a worldwide pandemic affecting millions of people and has fundamentally altered the operations of the world's cities, businesses, and schools.

(2) The outbreak of COVID–19 was first detected in Wuhan, China, and on January 21, 2020, the first confirmed case of COVID–19 was diagnosed in the United States.

(3) The World Health Organization (WHO) declared COVID–19 a global pandemic on March 11, 2020, and the President of the United States issued a national emergency declaration concerning the pandemic on March 13, 2020.